

ESHB 2884 - S COMM AMD
By Committee on Ways & Means

ADOPTED 03/07/2006

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 90.46 RCW
4 to read as follows:

5 (1) The department of ecology shall, in coordination with the
6 department of health, adopt rules for reclaimed water use consistent
7 with this chapter. The rules must address all aspects of reclaimed
8 water use, including commercial and industrial uses, land applications,
9 direct recharge, wetland discharge, surface percolation, constructed
10 wetlands, and stream flow augmentation. The department of health
11 shall, in coordination with the department of ecology, adopt rules for
12 greywater reuse. The rules must also designate whether the department
13 of ecology or the department of health will be the lead permitting or
14 regulatory agency responsible for a particular aspect of reclaimed
15 water use. In developing the rules, the departments of health and
16 ecology shall amend or rescind any existing rules on reclaimed water in
17 conflict with the new rules.

18 (2) All rules required to be adopted pursuant to this section must
19 be completed no later than December 31, 2010, although the department
20 of ecology is encouraged to adopt the final rules as soon as possible.

21 (3) The department of ecology must consult with the advisory
22 committee created under RCW 90.46.050 in all aspects of rule
23 development required under this section.

24 **Sec. 2.** RCW 90.46.050 and 1995 c 342 s 9 are each amended to read
25 as follows:

26 The department of ((health)) ecology shall, before July 1, ((1995))
27 2006, form an advisory committee, in coordination with the department
28 of ((ecology)) health and the department of agriculture, which will
29 provide technical assistance in the development of standards,

1 procedures, and guidelines required by this chapter. ((Such)) The
2 advisory committee shall be composed of ((~~individuals from the public~~
3 ~~water and wastewater utilities, landscaping enhancement industry,~~
4 ~~commercial and industrial application community, and any other persons~~
5 ~~deemed technically helpful by the department of health~~) a broad range
6 of interested individuals representing the various stakeholders that
7 utilize or are potentially impacted by the use of reclaimed water. The
8 advisory committee must also contain individuals with technical
9 expertise and knowledge of new advancements in technology.

10 NEW SECTION. Sec. 3. The department of ecology must present
11 interim reports to the appropriate committees of the legislature by
12 January 1, 2008, and January 1, 2009, that summarize the steps taken to
13 that date towards the final rule making required by section 1 of this
14 act. The reports must include, at a minimum, a summary of
15 participation in the advisory group and the topics considered by the
16 department.

17 **Sec. 4.** RCW 90.46.010 and 2002 c 329 s 3 are each amended to read
18 as follows:

19 The definitions in this section apply throughout this chapter
20 unless the context clearly requires otherwise.

21 (1) "Greywater" means wastewater having the consistency and
22 strength of residential domestic type wastewater. Greywater includes
23 wastewater from sinks, showers, and laundry fixtures, but does not
24 include toilet or urinal waters.

25 (2) "Land application" means ((~~application of treated effluent for~~
26 ~~purposes of~~) use of reclaimed water as permitted under this chapter
27 for irrigation or landscape enhancement for residential, business, and
28 governmental purposes.

29 (3) "Person" means any state, individual, public or private
30 corporation, political subdivision, governmental subdivision,
31 governmental agency, municipality, copartnership, association, firm,
32 trust estate, or any other legal entity whatever.

33 (4) "Reclaimed water" means effluent derived in any part from
34 sewage from a wastewater treatment system that has been adequately and
35 reliably treated, so that as a result of that treatment, it is suitable

1 for a beneficial use or a controlled use that would not otherwise occur
2 and is no longer considered wastewater.

3 (5) "Sewage" means water-carried human wastes from residences,
4 buildings, industrial and commercial establishments, or other places,
5 together with such ground water infiltration, surface waters, or
6 industrial wastewater as may be present.

7 (6) "User" means any person who uses reclaimed water.

8 (7) "Wastewater" means water and wastes discharged from homes,
9 businesses, and industry to the sewer system.

10 (8) "Beneficial use" means the use of reclaimed water, that has
11 been transported from the point of production to the point of use
12 without an intervening discharge to the waters of the state, for a
13 beneficial purpose.

14 (9) "Direct recharge" means the controlled subsurface addition of
15 water directly to the ground water basin that results in the
16 replenishment of ground water.

17 (10) "Ground water recharge criteria" means the contaminant
18 criteria found in the drinking water quality standards adopted by the
19 state board of health pursuant to chapter 43.20 RCW and the department
20 of health pursuant to chapter 70.119A RCW.

21 (11) "Planned ground water recharge project" means any reclaimed
22 water project designed for the purpose of recharging ground water, via
23 direct recharge or surface percolation.

24 (12) "Reclamation criteria" means the criteria set forth in the
25 water reclamation and reuse interim standards and subsequent revisions
26 adopted by the department of ecology and the department of health.

27 (13) "Streamflow augmentation" means the discharge of reclaimed
28 water to rivers and streams of the state or other surface water bodies,
29 but not wetlands.

30 (14) "Surface percolation" means the controlled application of
31 water to the ground surface for the purpose of replenishing ground
32 water.

33 (15) "Wetland or wetlands" means areas that are inundated or
34 saturated by surface water or ground water at a frequency and duration
35 sufficient to support, and that under normal circumstances do support,
36 a prevalence of vegetation typically adapted to life in saturated soil
37 conditions. Wetlands generally include swamps, marshes, bogs, and

1 similar areas. Wetlands regulated under this chapter shall be
2 delineated in accordance with the manual adopted by the department of
3 ecology pursuant to RCW 90.58.380.

4 (16) "Constructed beneficial use wetlands" means those wetlands
5 intentionally constructed on nonwetland sites to produce or replace
6 natural wetland functions and values. Constructed beneficial use
7 wetlands are considered "waters of the state."

8 (17) "Constructed treatment wetlands" means those wetlands
9 intentionally constructed on nonwetland sites and managed for the
10 primary purpose of (~~wastewater or storm water treatment~~) polishing
11 reclaimed water or aesthetics. Constructed treatment wetlands are
12 considered part of the collection and treatment system and are not
13 considered "waters of the state."

14 (18) "Agricultural industrial process water" means water that has
15 been used for the purpose of agricultural processing and has been
16 adequately and reliably treated, so that as a result of that treatment,
17 it is suitable for other agricultural water use.

18 (19) "Agricultural processing" means the processing of crops or
19 milk to produce a product primarily for wholesale or retail sale for
20 human or animal consumption, including but not limited to potato,
21 fruit, vegetable, and grain processing.

22 (20) "Agricultural water use" means the use of water for irrigation
23 and other uses related to the production of agricultural products.
24 These uses include, but are not limited to, construction, operation,
25 and maintenance of agricultural facilities and livestock operations at
26 farms, ranches, dairies, and nurseries. Examples of these uses
27 include, but are not limited to, dust control, temperature control, and
28 fire control.

29 (21) "Industrial reuse water" means water that has been used for
30 the purpose of industrial processing and has been adequately and
31 reliably treated so that, as a result of that treatment, it is suitable
32 for other uses.

33 **Sec. 5.** RCW 90.46.030 and 2005 c 59 s 1 are each amended to read
34 as follows:

35 (1)(a) The department of health shall, in coordination with the
36 department of ecology, adopt a single set of standards, procedures, and

1 guidelines on or before August 1, 1993, for the industrial and
2 commercial use of reclaimed water.

3 (b) Standards adopted under this section are superseded by any
4 rules adopted by the department of ecology pursuant to section 1 of
5 this act as they relate to the industrial and commercial use of
6 reclaimed water.

7 (2) Unless the department of ecology adopts rules pursuant to
8 section 1 of this act that relate to the industrial and commercial use
9 of reclaimed water specifying otherwise, the department of health may
10 issue a reclaimed water permit for industrial and commercial uses of
11 reclaimed water to the generator of reclaimed water who may then
12 distribute the water, subject to provisions in the permit governing the
13 location, rate, water quality, and purposes of use. Permits issued
14 after the adoption of rules under section 1 of this act must be
15 consistent with the adopted rules.

16 (3) The department of health in consultation with the advisory
17 committee established in RCW 90.46.050, shall develop recommendations
18 for a fee structure for permits issued under subsection (2) of this
19 section. Fees shall be established in amounts to fully recover, and
20 not exceed, expenses incurred by the department of health in processing
21 permit applications and modifications, monitoring and evaluating
22 compliance with permits, and conducting inspections and supporting the
23 reasonable overhead expenses that are directly related to these
24 activities. Permit fees may not be used for research or enforcement
25 activities. The department of health shall not issue permits under
26 this section until a fee structure has been established.

27 (4) A permit under this section for use of reclaimed water may be
28 issued only to:

29 (a) A municipal, quasi-municipal, or other governmental entity;

30 (b) A private utility as defined in RCW 36.94.010; or

31 (c) The holder of a waste discharge permit issued under chapter
32 90.48 RCW.

33 (5) The authority and duties created in this section are in
34 addition to any authority and duties already provided in law with
35 regard to sewage and wastewater collection, treatment, and disposal for
36 the protection of health and safety of the state's waters. Nothing in
37 this section limits the powers of the state or any political
38 subdivision to exercise such authority.

1 (6) Unless the department of ecology adopts rules pursuant to
2 section 1 of this act that relate to the industrial and commercial use
3 of reclaimed water specifying otherwise, the department of health may
4 implement the requirements of this section through the department of
5 ecology by execution of a formal agreement between the departments.
6 Upon execution of such an agreement, the department of ecology may
7 issue reclaimed water permits for industrial and commercial uses of
8 reclaimed water by issuance of permits under chapter 90.48 RCW, and may
9 establish and collect fees as required for permits issued under chapter
10 90.48 RCW.

11 (7) Unless the department of ecology adopts rules pursuant to
12 section 1 of this act that relate to the industrial and commercial use
13 of reclaimed water specifying otherwise, and before deciding whether to
14 issue a permit under this section to a private utility, the department
15 of health may require information that is reasonable and necessary to
16 determine whether the private utility has the financial and other
17 resources to ((assure)) ensure the reliability, continuity, and
18 supervision of the reclaimed water facility.

19 **Sec. 6.** RCW 90.46.040 and 2005 c 59 s 2 are each amended to read
20 as follows:

21 (1)(a) The department of ecology shall, in coordination with the
22 department of health, adopt a single set of standards, procedures, and
23 guidelines, on or before August 1, 1993, for land applications of
24 reclaimed water.

25 **(b)** Standards adopted under this section are superseded by any
26 rules adopted by the department of ecology pursuant to section 1 of
27 this act as they relate to the land application of reclaimed water.

28 (2) A permit is required for any land application of reclaimed
29 water. The department of ecology may issue a reclaimed water permit
30 under chapter 90.48 RCW to the generator of reclaimed water who may
31 then distribute the water, subject to provisions in the permit
32 governing the location, rate, water quality, and purpose of use. The
33 department of ecology shall not issue more than one permit for any
34 individual land application of reclaimed water to a single generator.

35 (3) In cases where the department of ecology determines, in land
36 applications of reclaimed water, that a significant risk to the public
37 health exists, the department shall refer the application to the

1 department of health for review and consultation and the department of
2 health may require fees appropriate for review and consultation from
3 the applicant pursuant to RCW 43.70.250.

4 (4) A permit under this section for use of reclaimed water may be
5 issued only to:

6 (a) A municipal, quasi-municipal, or other governmental entity;

7 (b) A private utility as defined under RCW 36.94.010; or

8 (c) The holder of a waste discharge permit issued under chapter
9 90.48 RCW.

10 (5) The authority and duties created in this section are in
11 addition to any authority and duties already provided in law. Nothing
12 in this section limits the powers of the state or any political
13 subdivision to exercise such authority.

14 (6) Before deciding whether to issue a permit under this section to
15 a private utility, the department of ecology may require information
16 that is reasonable and necessary to determine whether the private
17 utility has the financial and other resources to (~~assure~~) ensure the
18 reliability, continuity, and supervision of the reclaimed water
19 facility.

20 **Sec. 7.** RCW 90.46.042 and 1995 c 342 s 6 are each amended to read
21 as follows:

22 (1) The department of ecology shall, in consultation with the
23 department of health, adopt a single set of standards, procedures, and
24 guidelines, on or before December 31, 1996, for direct recharge using
25 reclaimed water. The standards shall address both water quality
26 considerations and avoidance of property damage from excessive
27 recharge.

28 (2) Standards adopted under this section are superseded by any
29 rules adopted by the department of ecology pursuant to section 1 of
30 this act as they relate to direct recharge using reclaimed water.

31 **Sec. 8.** RCW 90.46.044 and 1995 c 342 s 7 are each amended to read
32 as follows:

33 (1) The department of ecology shall, in consultation with the
34 department of health, adopt a single set of standards, procedures, and
35 guidelines, on or before June 30, 1996, for discharge of reclaimed
36 water to wetlands.

1 (2) Standards adopted under this section are superseded by any
2 rules adopted by the department of ecology pursuant to section 1 of
3 this act as they relate to discharge of reclaimed water to wetlands.

4 **Sec. 9.** RCW 90.46.080 and 1997 c 444 s 6 are each amended to read
5 as follows:

6 (1) Except as otherwise provided in this section, reclaimed water
7 may be beneficially used for surface percolation provided the reclaimed
8 water meets the ground water recharge criteria as measured in ground
9 water beneath or down gradient of the recharge project site, and has
10 been incorporated into a sewer or water comprehensive plan, as
11 applicable, adopted by the applicable local government and approved by
12 the department of health or department of ecology as applicable.

13 (2) If the state ground water recharge criteria as defined by RCW
14 90.46.010 do not contain a standard for a constituent or contaminant,
15 the department of ecology shall establish a discharge limit consistent
16 with the goals of this chapter, except as otherwise provided in this
17 section.

18 (3) Except as otherwise provided in this section, reclaimed water
19 that does not meet the ground water recharge criteria may be
20 beneficially used for surface percolation where the department of
21 ecology, in consultation with the department of health, has
22 specifically authorized such use at such lower standard.

23 (4) The provisions of this section are superseded by any rules
24 adopted by the department of ecology pursuant to section 1 of this act
25 as they relate to surface percolation.

26 **Sec. 10.** RCW 90.46.090 and 1997 c 444 s 7 are each amended to read
27 as follows:

28 (1) Reclaimed water may be beneficially used for discharge into
29 constructed beneficial use wetlands and constructed treatment wetlands
30 provided the reclaimed water meets the class A or B reclaimed water
31 standards as defined in the reclamation criteria, and the discharge is
32 incorporated into a sewer or water comprehensive plan, as applicable,
33 adopted by the applicable local government and approved by the
34 department of health or department of ecology as applicable.

35 (2) Reclaimed water that does not meet the class A or B reclaimed
36 water standards may be beneficially used for discharge into constructed

1 treatment wetlands where the department of ecology, in consultation
2 with the department of health, has specifically authorized such use at
3 such lower standards.

4 (3)(a) The department of ecology and the department of health must
5 develop appropriate standards for discharging reclaimed water into
6 constructed beneficial use wetlands and constructed treatment wetlands.
7 These standards must be considered as part of the approval process
8 under subsections (1) and (2) of this section.

9 (b) Standards adopted under this section are superseded by any
10 rules adopted by the department of ecology pursuant to section 1 of
11 this act as they relate to discharge into constructed beneficial use
12 wetlands and constructed treatment wetlands.

13 **Sec. 11.** RCW 90.46.100 and 1995 c 342 s 5 are each amended to read
14 as follows:

15 (1) Reclaimed water intended for beneficial reuse may be discharged
16 for streamflow augmentation provided the reclaimed water meets the
17 requirements of the federal water pollution control act, chapter 90.48
18 RCW, and is incorporated into a sewer or water comprehensive plan, as
19 applicable, adopted by the applicable local government and approved by
20 the department of health or department of ecology as applicable.

21 (2) Standards adopted under this section are superseded by any
22 rules adopted by the department of ecology pursuant to section 1 of
23 this act as they relate to discharge of reclaimed water for streamflow
24 augmentation.

25 NEW SECTION. **Sec. 12.** The code reviser shall alphabetize and
26 renumber the definitions in RCW 90.46.010."

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27 On page 1, line 1 of the title, after "water;" strike the remainder
28 of the title and insert "amending RCW 90.46.050, 90.46.010, 90.46.030,

1 90.46.040, 90.46.042, 90.46.044, 90.46.080, 90.46.090, and 90.46.100;
2 adding a new section to chapter 90.46 RCW; and creating new sections."

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